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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/286,723	04/06/99	DUGGAN	D LOOS-CASE-6

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EXAMINER

SAKRAN, V

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 06/18/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/286,723

Applicant(s)

DUGGAN

Examiner

Victor Sakran

Group Art Unit

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☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, and 4-7 is/are rejected.

☒ Claim(s) 3 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2 and 4, are rejected under 35 U.S.C. 103(a) as being unpatentable over McLay U. S. Patent '589 in view of Landry U. S. Patent '387.

McLay discloses the general combination claimed of a bracket assembly comprising a planar base portion having an aperture therein and a fastening means for mounting said bracket to a support structure including a first wing member extending away at an angle from said planar base and a second wing member also extending away at an angle from said planar base, wherein each of said wing members provided with an aperture therein for receiving fastening means, see Figures 1,

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3, 4 and the entire document; except for the particular use of the bracket assembly with a wire rope, cord or the like. Landry discloses a line, cord or rope holder bracket assembly including a planar base having an aperture therein, first and second wing members extending at an angle away from said base; see Figures 1 and 2 and the entire document. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the bracket assembly in McLay in combination with a wire rope or cable for supporting an object in the manner taught and suggested by Landry; and/or vice versa by merely using fastening means for securing the base of the bracket in Landry to a supporting surface in the manner taught and suggested by McLay; especially, since such modifications involve only routine skill in the art. Furthermore, the particular use of the bracket assembly is considered to be an obvious matter of choice within the skill in the art. As to the particular type of material used, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice; see *In Re Leshin*, 125 USPQ 416.

Claims 5 and 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claim 1, above, and further in view of Black et al U. S. Patent '288 who teaches the use of first and second wing - type portions extending away from its base; wherein said wing portions defining a generally an L - shaped members with respect to the center portion of its base; see Figures 1, 4, and 5. Note that the aperture 10, and one of the other

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apertures 16, are disposed perpendicular with respect to each other, and to further incorporate such structure in McLay and/or Landry in the manner taught and disclosed by Black et al, it would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claim 6, is rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claim 5, above, and further in view of Krongauz et al U. S. Patent '843 who teaches the use of a plurality of similar brackets assembly having an aligned apertures formed at their base portions for receiving a fastening means, see Figures 2, 3, 4 and 8 and to use a plurality of similar bracket assembly in McLay and/or Landry instead of just one in the manner taught and suggested by Krongauz et al it would have been obvious to one having ordinary skill in the art at the time the invention was made.

Claim 3, is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the prior art cited herein, but not applied, as showing structure related to Applicant's disclosed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Victor Sakran** whose **telephone number is (703) 308-2224**. The examiner can normally be reached on Monday-Thursday from 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Anthony Knight**, can be reached on **(703) 308-3179**. The fax phone number for this Group is **(703) 305-3597** or **305-3598**.

Any inquiry of a general nature or relating to the status of this application should be directed to the **Group receptionist** whose **telephone number is (703) 308-2168**.


VICTOR SAKRAN
PRIMARY EXAMINER
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June 16, 1999